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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,593	02/09/2004	Stephanie Western	6973P001	1763

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,593

Applicant(s)

WESTERN, STEPHANIE

Examiner

Joseph M. Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 2, 3, 5-12 and 15-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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The Examiner acknowledged Applicant's submission of the amendment filed 4/22/05. Claims 2-21 are now pending.

Claim Rejections - 35 USC § 112

Claims 5, 11, 15, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of the above cited claims lists several temperature sensing embodiments without specifying whether they are alternative or combined limitations, rendering the scope of the claims unclear.

Claim Rejections - 35 USC § 103

Claims 2, 3, 6-12, 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat 6528766 (US'766) in view of US Pat. 6316750 (US'750).

Referring to Figs. 1-7, and col. 3, lines 2-6, US'766 discloses a baby wipe warmer and associated method, heated either by battery or the burning of lighter fluid, a durable, and rigid container 12. US'766 inherently discloses maintenance of a specific temperature range since fuel orifice 8 is intended to supply fuel just to "warm" the wipes, hence it would supply "regulated" and not indiscriminate heating, as recited in claim 3, the latter of which would be dangerous; likewise the embodiment utilizing battery power. Moreover, rechargeable batteries are conventional and therefore obvious and commended by reason of their economy. The claims differ substantively from US'766 only in reciting control of heating based on the sensed temperature of the wipes.

US'750 discloses, at col. 1, lines 57-60, controlled heating of moist medical pads based on the sensed temperature of the pads. It would have been obvious to adapt the sensing means of US'750 to the warmer of US'766 to enhance precision of temperature control.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US'766 in view of US'750 as applied to claims 2, 3, 6-12, 15-21 above, and further in view of US Pat. 5738082 (US'082).

The claim differs from US'766 in view of US'750 only in reciting a second heat control to prevent overheating.

Referring to col. 3, lines 6-9, US'082 discloses a second heat control 26 to prevent overheating in a wipe warming device. It would have been obvious to adapt the second control means of US'082 to the wipe warmer of US'766 in view of US'750 to avoid overheating.

Allowable Subject Matter

Claims 4, 13, and 14 are allowed.

Response to Arguments

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Applicant's arguments with respect to claims 2-21 have been considered but are moot in view of the new ground(s) of rejection.

Applicant is strongly urged to review the prior art cited but not applied when replying to this Office action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

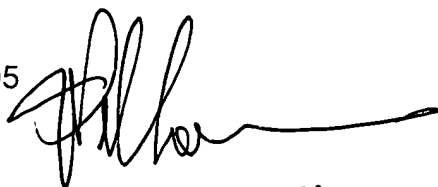
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7/8/05



JOSEPH PELHAM
PRIMARY EXAMINER